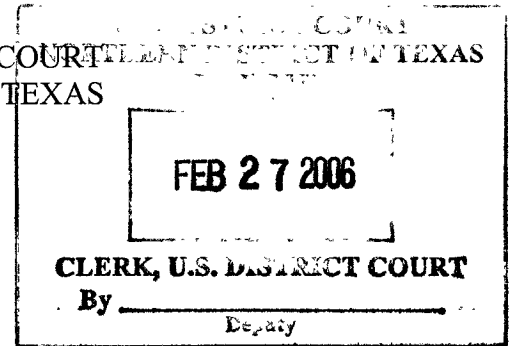


ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION



UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
HALE COUNTY, TEXAS;)
DIANE WILLIAMS, the)
COUNTY CLERK, in her official)
capacity; and)
the HALE COUNTY COMMISSIONERS)
COURT;)
)
Defendants.)

No.

COMPLAINT

5-06CV0043-C

The United States of America, Plaintiff herein, alleges:

1. The Attorney General files this action pursuant to Sections 203, 204, 208, and 12(d) of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973aa-1a; 42 U.S.C. § 1973aa-2; 42 U.S.C. § 1973aa-6; 42 U.S.C. § 1973j(d); and 28 U.S.C. § 2201.
2. The Court has jurisdiction of this action pursuant to 28 U.S.C. § 1345, 42 U.S.C. § 1973j(d), and 42 U.S.C. § 1973j(f).
3. The events relevant to this action occurred in Hale County, which is located in the United States District Court for the Northern District of Texas, Lubbock Division.
4. Defendant HALE COUNTY is a political and geographical subdivision of the State of Texas.

5. Defendant DIANE WILLIAMS is the County Clerk of Hale County. In her capacity as County Clerk, Defendant Williams has responsibilities concerning the administration of voting and elections in Hale County. Defendant Williams is sued in her official capacity.

6. Defendant HALE COUNTY COMMISSIONERS COURT is the primary budgetary authority for the County and for the County Clerk and Elections Coordinator.

7. According to the 2000 Census, Hale County had a total population of 36,602 persons, of whom 17,532 (47.9%) were Hispanic. The total citizen voting-age population was 25,532, of whom 10,663 (41.8%) were Hispanic.

8. According to the 2000 Census, 2,625 voting age citizens in Hale County (or 10.3% of the total citizen voting age population) had limited English proficiency.

9. Hale County, as a political subdivision of the State of Texas, is subject to the requirements of Section 203 with respect to the Spanish language. See 42 U.S.C. § 1973aa-1a(c); 40 Fed. Reg. 41,827 (Sept. 9, 1975). The determination that Section 203 covers Hale County for Spanish language is final and non-reviewable. See 42 U.S.C. § 1973b(a)(9)(b); 28 C.F.R. § 55.4(a)(2).

10. Hale County has been continuously covered under Section 203 to provide bilingual elections in Spanish since September 1975. See 40 Fed. Reg. 41,827 (Sept. 9, 1975). The Department of Justice has directly notified Hale County election officials regarding the bilingual election requirements of the Voting Rights Act, including in letters dated July 26, 2002 and August 31, 2004.

FIRST CAUSE OF ACTION

11. The Plaintiff hereby alleges and incorporates by reference paragraphs one through eleven above.

12. Section 208 of the Voting Rights Act provides that “[a]ny voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.” 42 U.S.C. § 1973aa-6.

13. In violation of Section 208, the Defendants, their employees, and agents have failed to allow voters the assistants of their choice through the following practices:

- a) Prohibiting family members and poll watchers from providing assistance to limited English proficient Spanish-speaking citizens.
- b) Requiring Spanish-speaking voters to be assisted by poll workers who either did not speak Spanish or did not speak Spanish fluently.
- c) Failing to accurately and adequately instruct poll workers on their duty to permit voters assistance from any person of their choice, other than their employers or union officials.

14. Defendants’ failure to allow voters to receive necessary assistance from any person of their choice, other than their employers or union officials, as described herein, is a violation of Section 208 of the Voting Rights Act. 42 U.S.C. § 1973aa-6.

15. Unless enjoined by this Court, Defendants will continue to violate Section 208 by failing to provide Hale County’s voters with the opportunity to receive assistance from

persons of the voters' choice and by limiting the scope of the assistance voters can receive from their chosen assistors.

SECOND CAUSE OF ACTION

16. The Plaintiff hereby alleges and incorporates by reference paragraphs one through sixteen above.

17. Under Section 203 of the Voting Rights Act, "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots" that Defendants provide in English must also be furnished in Spanish to Spanish-speaking voters. 42 U.S.C. § 1973aa-1a(c).

18. In violation of Section 203, the Defendants, their employees, and agents have not effectively provided election-related materials and information in Spanish to limited English proficient Hispanic citizens as required by Section 203 of the Voting Rights Act, including, but not limited to, the following:

- a) Failing to recruit, appoint, train, and maintain an adequate pool of bilingual poll officials capable of providing effective language election information and assistance to limited English proficient Spanish-speaking citizens that it provides in English; and
- b) Failing to provide certain election-related information that it provides in English, including, but not limited to, information publicizing elections, in a manner that assures Spanish-speaking voters an effective opportunity to be informed about election-related activities.

19. Defendants' failure to provide effective Spanish language materials and information, as described herein, constitutes a violation of Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a(c).

20. Unless enjoined by this Court, Defendants will continue to violate Section 203 by failing to provide Spanish-speaking citizens of Hale County with Spanish-language election information and assistance necessary for their effective political participation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff the United States of America prays that this Court enter an order:

- (1) Declaring that the practices of Defendants set forth above violate Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6;
- (2) Declaring that Defendants have failed to provide election assistance and information necessary to those who require it in Spanish for effective political participation, in violation of Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a(c);
- (3) Enjoining Defendants, their agents, and successors in office, and all persons acting in concert with them, from engaging in any act or practice that denies the rights secured by Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6;
- (4) Enjoining Defendants, their employees, agents, and successors in office, and all persons acting in concert with them, from failing to provide Spanish-language election assistance and information to persons with limited English proficiency as required by Section 203, 42 U.S.C. § 1973aa-1a(c);
- (5) Requiring Defendants to devise and implement a remedial plan to ensure that Hale County's voters are permitted assistance from persons of choice when they cast their


ballots, in compliance with Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6;

- (6) Requiring Defendants to devise and implement a remedial plan to ensure that Spanish-speaking citizens with limited English proficiency are able to understand, learn of, and participate in all phases of the electoral process as required by Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a(c);
- (7) Requiring Defendants to publicize effectively the remedial plans and programs addressing violations of Section 208 of the Voting Rights Act to ensure their dissemination to Hale County's voters;
- (8) Requiring Defendants to publicize effectively the remedial plans and programs addressing violations of Section 203 of the Voting Rights Act to ensure their widespread dissemination to Hale County's minority language voters; and
- (9) Authorizing the appointment of federal examiners for elections held in Hale County pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a), through December 31, 2008.

Plaintiff further prays that this Court order such additional relief as the interests of justice may require, together with the costs and disbursements in maintaining this action.

Date: 27th day of February, 2006

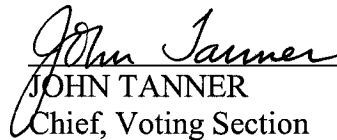
ALBERTO R. GONZALES
Attorney General



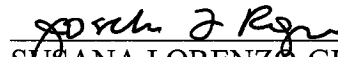
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CIVIL COVER SHEET

JS 44 (Rev 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

I. (a) PLAINTIFFS UNITED STATES OF AMERICA (b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS HALE COUNTY ET AL <div style="font-size: 2em; font-weight: bold; text-align: center;">5-06CV0043-C</div> County of Residence of First Listed Defendant <u>Hale County, Texas</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED
(c) Attorney's (Firm Name, Address, and Telephone Number) E. Scott Frost, Assistant United States Attorney 1205 Texas Avenue, Lubbock, TX 79401 806.472.7566	Attorneys (If Known) James M. Tirey, Hale County Attorney, 500 Broadway Street Courthouse Basement, Plainview, TX 79072 806.291.5306

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) <table style="width: 100%;"> <tr> <td style="width: 33%;">Citizen of This State</td> <td style="width: 10%;">PTF <input type="checkbox"/> 1</td> <td style="width: 10%;">DEF <input type="checkbox"/> 1</td> <td style="width: 33%;">Incorporated or Principal Place of Business In This State</td> <td style="width: 10%;">PTF <input type="checkbox"/> 4</td> <td style="width: 10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2</td> <td>DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td>PTF <input type="checkbox"/> 5</td> <td>DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3</td> <td>DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6</td> <td>DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2	DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	PTF <input type="checkbox"/> 5	DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6
Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4														
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Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only)	
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition
FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	

V. ORIGIN (Place an "X" in One Box Only) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) _____ <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION Brief description of cause: Violation of Sections 203 and 208 of the Voting Rights Act of 1965.

VII. REQUESTED IN COMPLAINT: <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY (See instructions).	JUDGE _____ DOCKET NUMBER _____
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DATE 2/27/06	SIGNATURE OF ATTORNEY OF RECORD
FOR OFFICE USE ONLY	

RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG JUDGE _____
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